IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

OP.No. 9448 of 2001(Y)

PETITIONER:

SAINUDEEN.P.A.,
SABITHA MANZIL,
KURISUJMOODU P.O.,
CHANGANASSERRY,
KOTTAYAM.

BY ADV. SRI.P.RAVINDRAN
SRI.ANIL SIVARAMAN

RESPONDENTS:

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1. GOVERNMENT OF KERALA REP. BY ITS SECRETARY, LABOUR & REHABILITATION(S) DEPT., GOVERNMENT SECRETARIAT, TRIVANDRUM.

2. THE CHIEF EXECUTIVE OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, QMC 465, THAMARAKULAM, PB NO.172, QUILON-691 001.

3. THE DISTRICT OFFICER, KERALA MOTOR TRANSPORT WORKERS WELFARE FUND BOARD, KOTTAYAM.

R2&3 BY ADV. SMT.I.SHEELA DEVI, SC

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 14/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P. NO.15148/2001 IN O.P. NO.9448/2001

DISMISSED:

14.3.2007 SD/-(C.N.RAMACHANDRAN NAIR, JUDGE.)

APPENDIX

PETITIONER'S EXHIBITS:

P1: TRUE COPY OF FINAL DETERMINATION ORDER DT.26.3.98.

P2: TRUE COPY OF G.O. DT.3.7.99.

P3: TRUE COPY OF APPEAL PETITION DT.24.2.2000.

P4: TRUE COPY OF APPEAL PETITION DT.24.2.2000.

P5: TRUE COPY OF NOTICE DT.3.3.2000.

P6: TRUE COPY OF NOTICE DT.10.4.2000.

P7: TRUE COPY OF LEGAL NOTICE ISSUED UPON R2 DT.15.4.2000 BY PETTIONER'S COUNSEL.

P8: TRUE COPY OF G.O. DT.15.12.2000.

RESPONDENT'S EXHIBITS:

R2(a): TRUE COPY OF THE OBJECTION DT.26.5.97 FILED BY THE PETITIONER.

TRUE COPY

P.S. TO JUDGE

C.N.RAMACHANDRAN NAIR, J.

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O.P. No.9448 of 2001

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Dated this the 14th day of March, 2007.

JUDGMENT

The petitioner is challenging demand of Motor Transport Workers Welfare Fund contribution sustained in appeal for 1996-97. The petitioner was admittedly operating two stage carriages and the demand is only for three workers. This court has held that a stage carriage with two doors can be operated only with minimum four workers and therefore, if full workers were taken into account, then the assessment would have been for 6 to 8 workers. The petitioner's case that some of the employees were his relatives, therefore appear to be accepted by the Executive Officer because demand is only for three workers. For the three workers on whose behalf demand is raised which is under contest, petitioner has not impleaded them as parties to establish his case that they were relatives and not his employees. Standing Counsel for the Welfare Fund Board submitted that petitioner himself gave statement that demand should be limited to three workers which was accepted. In the circumstances, O.P. is devoid of any merit and is dismissed. However, petitioner is given time till 15.4.2007 to clear the arrears, failing which recovery will be continued thereafter.

C.N.RAMACHANDRAN NAIR
Judge

pms